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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/785,383

02/24/2004

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EXAMINER

LU, JIPING

ART UNIT

PAPER NUMBER

3743

NOTIFICATION DATE

DELIVERY MODE

06/25/2009

ELECTRONIC

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

docketing-patent@blacklaw.com  
smith@blacklaw.com

<b>Office Action Summary</b>	<b>Application No.</b> 10/785,383	<b>Applicant(s)</b> STORRER ET AL.	
	<b>Examiner</b> Jiping Lu	<b>Art Unit</b> 3743	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 15 April 2009.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 24-42 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 24-42 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)          | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

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## **DETAILED ACTION**

### ***Claim Status***

1. Claims 24-42 are now in the case. Claims 1-23 have been canceled.

### ***Continued Examination Under 37 CFR 1.114***

2. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 3/23/09 has been entered.

### ***Claim Rejections - 35 USC § 112***

3. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

4. Claims 31-32, 36-37 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. The claimed limitation of vacuum mat with interplane vacuum chamber in fluid communication with hose that is self sealable against the at least one surface of a wall-floor

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junction or a wall-wall junction upon application of suction from the vacuum source in claim 31 and the claimed vacuum slidably engageable with the at least one vacuum port in claim 36 are new matters which is not supported by the originally filed specification.

5. Claims 28-29 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Claim 29 depends to claim 28. Claim 29 calls for "indirect fluid communication" which fails to further limit the claimed subject matter of "direct fluid communication" in claim 28. The structural connections among the mats, hose and ports as claimed in claims 28-29 are unclear. Clarification is required.

***Claim Rejections - 35 USC § 102***

6. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action. 28-32

7. Claims 24-27, 33-35, 38-40 are rejected under 35 U.S.C. 102(b) as being anticipated by Komata (JP 08042148 A).

Komata shows an apparatus having a vacuum source for removing moisture beneath or from at least one surface of a structure G. The apparatus includes a vacuum mat 7 with integral construction and being in removable contact with the at least one surface G via a plurality of mat supports 3. The vacuum mat 7 has a vacuum port (not numbered, between 7 and 8) and at least one channel 4 between the mat supports 3 in fluid communication with the at least one surface G and the at least one vacuum port (not numbered, between 7 and 8). A hose 8 is in fluid communication with a vacuum source (upstream of 8) and at least one vacuum port (not

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numbered, between 7 and 8). Water migration occurs in the direction from the one surface G to one channel 4, to one vacuum port (between 7 and 8), through the hose 8 and towards the vacuum source (upstream of 8). For claims 25, 26, see spaced channels between mat supports 3. For claim 27, see self-sealing edge 2, 7. For claim 34, see Fig. 1 for reservoir (not numbered, center portion between 7 and 8). For claim 38, see Fig. 1 for interplane vacuum chambers (not numbered, center portion between 7 and 8).

***Claim Rejections - 35 USC § 103***

8. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

9. Claims 28-30 are rejected under 35 U.S.C. 103(a) as being unpatentable over Komata (JP 08042148 A) in view of Billner et al.(U. S. pat. 2,715,038).

The apparatus of Komata as above includes all that is recited in claims 28-30 except for a plurality of vacuum mats. Billner et al. teach an apparatus with a plurality of vacuum mats 26 same as claimed. The vacuum port of each of vacuum mats 26 is in fluid communication thru a common a vacuum tube 20 with the hose (at 48) (see Fig. 2). Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the apparatus of Komata with a plurality of vacuum mats as taught by Billner et al. in order to improve vacuum efficiency.

10. Claims 31-32 are rejected under 35 U.S.C. 103(a) as being unpatentable over Komata (JP 08042148 A) in view of Mendola (U. S. Pat. 4,185,429).

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The apparatus of Komata as above includes all that is recited in claims 31-32 except for the interplane vacuum chamber in fluid communication with the hose that is self sealable against the at least one surface of a wall-floor junction or a wall-wall junction. Mendola teaches an apparatus with an interplane vacuum chamber 35 in fluid communication with the hose 16 that is self sealable against the at least one surface of wall-floor junction or a wall-wall junction.

Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the apparatus of Komata to include an interplane vacuum chamber which is self sealable against the at least one surface of a wall-floor junction or a wall-wall junction as taught by Mendola in order to pursue an intended use.

11. Claims 36-37 are rejected under 35 U.S.C. 103(a) as being unpatentable over Komata (JP 08042148 A) in view of Billner et al. (U. S. Pat. 2,715,038) and Brauck (U. S. Pat. 3,140,884).

The apparatus of Komata as above includes all that is recited in claims 36-37 except for the hose achieves fluid communication via a vacuum tube slidably engageable with the at least one vacuum port and pierceably engageable with the hose via a puncturing insert. Billner et al. teach an apparatus with vacuum mat 26. Hose 20 achieves fluid communication via a vacuum tube 46 slidably engageable with the at least one vacuum port (at 44) of the vacuum mat 26 (see Fig. 10) and engageable with hose 20. Brauck teaches a concept of using a puncturing insert 40 for coupling hose. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the apparatus of Komata to slidably engage the hose to the vacuum port as taught by Billner et al. in order to obtain a predictable connection result and to further modify the apparatus of Komata to include a puncturing insert for coupling

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the vacuum tube and the hose as taught by Brauck in order to obtain a predictable coupling result.

12. Claims 38-42 are rejected under 35 U.S.C. 103(a) as being unpatentable over Mendola (U. S. Pat. 4,185,429) in view of Forte (U. S. Pat. 3,426,487).

Mendola shows an apparatus for removing moisture from the surface of a structure comprising at least one interplane vacuum chamber 35 having a hose port and a sealing cushion along the periphery of the interplane vacuum chamber defining spaces engageable with the surfaces, a hose 16 connected with the hose port and in fluid communication with the interplane vacuum chamber 35, The at least one interplane vacuum chamber self seals against the surfaces along the periphery of the sealing cushion. The at least one interplane vacuum chamber engages against a first surface occupying separate relative to a second surface (see Figs. 1-2). The first and the second surfaces are orthogonally oriented. The apparatus of Mendola as above includes all that is recited in claims 38-42 except for a vacuum source attachable to the vacuum port.

Forte teaches an apparatus for removing unwanted moisture from a structure including a vacuum source 74 attachable to a vacuum port 40 for creating suction and efficiently and quickly remove water from the wall structure same as claimed. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the apparatus of Mendola to include a vacuum source as taught by Forte in order to efficiently and quickly remove the water or moisture from the structure.

13. Claims 24-37 are rejected under 35 U.S.C. 103(a) as being unpatentable over Mendola (U. S. Pat. 4,185,429).

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Mendola discloses a moisture removing apparatus same as claimed except for using a vacuum mat for removing the water from a surface. However, it would have been obvious to one skill in the art at the time the invention was made to substitute a vacuum mat for the housing of Mendola for removing the water from a surface since applicants admitted that embodiment of the claimed design in Figs. 3A, 7, 8A, 9 (directed towards claims 24-30, 32-34) is obvious variation of the embodiment as claimed design in Figs. 11, 12, 13A (directed towards claims 35-36, 38-41) to one ordinary skill in the art therefore the claims 24-30, 32-34 and claims 35-36, 38-41 are not separate and distinct (see last line of page one of the election filed on 8/15/05).

### ***Response to Arguments***

14. Applicant's arguments with respect to claims have been considered but are moot in view of the new ground(s) of rejection.

### ***Conclusion***

15. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jiping Lu whose telephone number is 571 272 4878. The examiner can normally be reached on Monday-Friday, 9:00 AM - 5:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, KENNETH RINEHART can be reached on 571-272-4881. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.



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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Jiping Lu/  
Primary Examiner  
Art Unit 3743

J. L.